

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/01/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2002-000154

FILED: _____

STATE OF ARIZONA

KENNETH M FLINT

v.

RONALD REY BALDWIN

NEAL W BASSETT

REMAND DESK CR-CCC
SCOTTSDALE CITY COURT

MINUTE ENTRY

SCOTTSDALE CITY COURT

Cit. No. 1487663

Charge: 1. PUBLIC SEXUAL INDENCY
2. INDECENT EXPOSURE

DOB: 09/06/54

DOC: 08/15/01

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

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This matter has been under advisement without oral argument, and this decision is made within 30 days as required by Rule 9.8, Maricopa County Superior Court Local Rules of Practice. This Court has considered the record from the Scottsdale City Court, and the Memoranda submitted by counsel.

Appellant was charged and convicted of two misdemeanor offenses: Public Sexual Indecency, in violation of A.R.S. Section 13-1403, and Indecent Exposure, in violation of A.R.S. Section 13-1402. The only issue presented on appeal is whether the trial court erred in denying Appellant's Motion to Dismiss and further erred in finding Appellant guilty of both charges. Appellant contends that the Indecent Exposure crime is a lesser included offense of Public Sexual Indecency, and the lesser charge must be dismissed. This issue has been resolved against Appellant by the Arizona Supreme Court in Rolph v. City Court of the City of Mesa¹. In that case the Arizona Supreme Court concluded:

Exposure of the Defendant's own private bodily parts is not, however, a necessary element of the crime of Public Sexual Indecency by an act of sexual contact. Since Public Sexual Indecency can be committed without necessarily committing indecent exposure, we find that Indecent Exposure is a separate offense and not a lesser included offense of Public Sexual Indecency.²

This Court must conclude, then, that the trial court did not err.

IT IS THEREFORE ORDERED affirming the judgment of guilt and sentences imposed by the Scottsdale City Court in this case.

¹ 127 Ariz. 155, 618 P.2d 1081 (1981).

² Id., 127 Ariz. at 158-59, 618 P.2d at 1084-85.

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IT IS FURTHER ORDERED remanding this matter back to the
Scottsdale City Court for all further and future proceedings in
this case.